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The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
State Laboratory Institute
305 South Street, Jamaica Plain, MA 02130

BUREAU OF COMMUNICABLE DISEASE CONTROL

Date: May 9, 2003

To: Hospitals, Clinics, Health Care Facilities, and Clinical Laboratories

From: Alfred DeMaria, Jr., M.D., Assistant Commissioner, State Epidemiologist
Bureau of Communicable Disease Control

Tracy Miller, J.D., MDPH Privacy Officer

Re: Authorization for Access to Medical Records by Massachusetts Department of Public Health (MDPH) for Purposes of Disease Control and Prevention

Public health reporting mandated or authorized by law is not changed by the rules and regulations promulgated under Health Insurance Portability and Accountability Act of 1996 (HIPAA). The HIPAA Privacy Rule specifically allows public health reporting and access to protected health information (PHI) for public health activities without requiring an individual's authorization. The Bureau of Communicable Disease Control is a program of the Massachusetts Department of Public Health (MDPH) and MDPH is a public health authority as defined by the HIPAA Privacy Regulation (45 CFR §§ 164.501 and 164.512 (b)). Local boards of health have coordinate authority with the MDPH to access PHI for the public health activities described in this memo. Staff of the Bureau of Communicable Disease Control and local boards of health (or authorized agents) are authorized to inspect certain medical records in the course of conducting official public health duties. Employees are bound to protect confidential information obtained during the course of an investigation. See, M.G.L. c. 111D, §6 and 105 CMR 300.120.

Case investigations frequently require prompt access to confidential medical records for clinical, laboratory, or treatment data. Access by MDPH to hospital, clinic, and laboratory records is specifically authorized under MGL Chapter 111, §§ 5 and 7, and Chapter 111D, §6. These laws are further clarified by 105 CMR 300.000: Reportable Diseases and Isolation and Quarantine Requirements, sections 300.190 (Surveillance and Control of Diseases Dangerous to the Public Health) and 300.191 (Access to Medical Records and Other Information).

Access to PHI, including medical records, is allowed under the Privacy Rule (45 CFR 164.512 (b)). The regulations state that a covered entity is allowed to disclose protected health

information to a public health authority, without the written authorization of the individual, when it is to be used for the purpose of preventing or controlling disease, injury or disability. Access includes, but is not limited to, the conduct of public health surveillance, public health investigations, and public health interventions. Please note that while covered entities are required to account for disclosures made to a public health authority, routine reporting conducted on an on-going basis to public health authorities need not be logged in individual medical records and may consist of a summary statement as to the nature of such reporting. 45 CFR § 164.528 (b)(3).

MDPH will specify the minimum information necessary to conduct public health investigations, and providers may reasonably rely on a public health official's determination that the information requested is the minimum necessary data for this purpose.

Any questions concerning specific situations may be directed to the Division of Epidemiology and Immunization Surveillance Program at (617) 983-6801. Thank you for your cooperation and assistance in our efforts to prevent and reduce morbidity and mortality in Massachusetts.